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"agency" for Ford cars and sold them below the price stipulated in the contracts which plaintiff made with its authorized agents. *Held,* the judgment of the lower court dismissing plaintiff's bill, should be reversed and further proceedings ordered. *Ford Motor Co.* v. *Benj. E. Boone, Inc.* (C. C. A. 9th Circ., 1917), 244 Fed. 335.

The court based its ruling on the proposition that by using the recognized Ford trademarks and otherwise leading the public to believe it was an authorized agency the defendant was guilty of "unfair and deceptive practices" from which the plaintiff was entitled to protection. This had nothing whatever to do with validity of contracts between the plaintiff and its real agents; indeed the court expressly assumed for the sake of argument that such contracts were invalid. The court then, however, to what end is not clear, discussed the legality of the contracts. This is of interest in comparison with the case of the same plaintiff against the UNION MOTOR SALES CO., noted below. The contract here involved, unlike that in the *Union Sales Co.* case, specifically provided that title should not pass from the plaintiff, even though the full agent's price had been paid, until the plaintiff should have signed a bill of sale to some one purchasing a car for use, not merely for re-sale. It was contended that this reservation of title was "only an adroit attempt to avoid the effect of certain decisions" such as those on which the *Union Sales Co.* decision was based, and that it ran counter to the rule of such cases. The court held the reservation of title to be valid and effective and that the plaintiff could, therefore, legally limit the price at which cars might be sold to users. In discussing such cases as those in which the *Union Sales Co.* decision was based the court strongly indicates that the contracts involved in those cases were invalid because they effected "the exclusive control of a useful or desirable article of commerce" while the contracts in the present case covered only one type of desirable articles. The court cites no authority in support of the effect of its distinction, but its idea is probably the same as that more pertinently considered in *Ghirardelli Co.* v. *Hunsicker,* 164 Cal. 355.

CONTRACTS—RESTRICTION UPON RESALE PRICE—INVALID.—Plaintiff sued to restrain defendant from inducing authorized distributors of Ford automobiles to sell them at less than the price which they had contracted with plaintiff to maintain. *Held,* the injunction should be denied. *Ford Motor Co.* v. *Union Motor Sales Co.* (C. C. A. 6th Circ., 1917), 244 Fed. 156.

Refusal to grant the relief asked was predicated upon the proposition that the agreements not to resell below a fixed price were contrary to public policy and illegal, being an improper restraint of trade. "* * * It is the general and well-settled rule," said the court, "that a system of contracts between a manufacturer and retail dealers, by which the manufacturer, in connection with absolute sales of his product, attempts to control the resale prices for all sales, by all dealers, eliminating all competition, and fixing the amount which the ultimate purchaser shall pay, amounts to restraint of trade, and is invalid both at common law and, so far as it affects interstate commerce, under the SHERMAN ANTI-TRUST ACT." *Dr. Miles Medical Co.* v. *Park & Sons Co.,* 220

U. S. 373; *John D. Park & Sons Co.* v. *Hartman,* 153 Fed. 24, 12 L. R. A. (N. S.) 135; *United States* v. *Kellogg Toasted Corn Flake Co.,* 222 Fed. 725. The court found specifically that title to the machines had been passed from the plaintiff to its distributors. In the *Hartman* case, cited, the court called attention particularly to the fact that, "The reasons which might uphold covenants restricting the liberty of a single buyer might prove quite inadequate when there are a multitude of identical agreements." It is this "system of contracts", as the courts call it, which distinguishes such cases as these from the numerous ones holding single contracts in restraint of trade to be valid and enforcible. A single contract not to resell below a stipulated price was upheld in *Garst* v. *Harris,* 177 Mass. 72 and in *Clark* v. *Frank,* 17 Mo. App. 602. Even systems of such contracts have been held valid and enforcible in particular circumstances. See *Ghirardelli Co.* v. *Hunsicker,* 164 Cal. 355, distinguishing *Park & Sons Co.* v. *Hartman, supra,* on the ground that the contracts in that case involved the entire public supply of the product while those in the particular case, although they applied to all that the parties could control, covered only a part of the entire supply available to the public; *Fisher Flouring Mills Co.* v. *Swanson,* 76 Wash. 649, 51 L. R. A. (N. S.) 522; *Grogan* v. *Chaffee,* 156 Cal. 611, 27 L. R. A. (N. S.) 395; *Com.* v. *Grinstead,* 111 Ky. 203; 56 L. R. A. 709; *Cleland* v. *Anderson,* 66 Neb. 252, 5 L. R. A. (N. S.) 136N. In accord with the principal case is *Hill Co.* v. *Gray & Worcester,* 163 Mich. 12, 30 L. R. A. (N. S.) 327. A contention was made by counsel that the automobiles were covered by patents and that it is lawful "to create a monopoly in patented articles." The court answered, on the authority of such cases as *Bauer* v. *O'Donnell,* 229 U. S. 1, and *Motion Picture Patents Case,* 243 U. S. 502, that, inasmuch as plaintiff had passed the title to the distributors, the chattels were no longer subject to the patent monopoly. The court made no reference to the fact, and counsel seems not to have presented it, that a monopoly in the use, manufacture, or sale of patented articles is already created by the patent statute, and that contracts such as those involved in the case do not "create" any monopoly but simply limit the extent to which the owner of the statutory monopoly has released it. 15 MICH. L. REV. 581; *John D. Park & Sons Co.* v. *Hartman, supra.* However, even if it be logically unsound to ignore this, the cases seem likely to stand as law, if only upon the doctrine of *communis error.*

CONTRACTS—RESTRICTION UPON RESALE PRICE—VALID.—Plaintiff sued, as manufacturer of Ingersoll watches, to restrain defendant from reselling them at a price below that required by a notice affixed to each watch originally sold by plaintiff. *Held,* a motion to dismiss the bill should be denied. *Robt. H. Ingersoll & Bro.* v. *Hahne & Co.* (N. J. Ct. of Ch., 1917), 101 Atl. 1030.

The decision in this case is in flat conflict with that of the *Ford Motor Co.* case, *supra.* The facts do not show any privity of contract between the parties, but the court apparently assumes that there was a contract. In disposing of the defendant's contention that the contract, so far as it restricted the resale price, was invalid, the court said, "On the argument there was, and in counsels' brief there is, a long discussion as to whether the contract against